

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Nathaniel Simmons,)
Plaintiff,)
vs.)
Charles Williams; Thomas Robertson;)
Alyson Gladwell; Stephanie Marshall;)
Stanley Terry; Clarissa Jones; Juanita Moss;)
Bell; Myers; Beard; Willie F. Smith;)
Sherman L. Anderson; Jennifer Franklin;)
Shakira Williams; Michelle Chambers;)
Tim E. Rogers; Deborah Richter;)
Victoria Norman; Ashley Maddox; Cynthia)
Darden; Kennard Dubose; Bryan P.)
Stirling,)
Defendants.)
C.A. No. 0:19-0317-HMH-PJG
OPINION & ORDER

This matter is before the court on Nathaniel Simmons' ("Simmons") pro se motion to alter or amend the judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court denies Simmons' motion.

On April 19, 2019, United States Magistrate Judge Paige J. Gossett recommended dismissal of the complaint for failure to state a plausible claim for relief. (R&R, generally, ECF No. 18.) After receiving no objections, the court adopted the Report and Recommendation in an order dated May 13, 2019. (May 13, 2019 Order, ECF No. 22.) On May 16, 2019, the court received Simmons' motion for extension of time to file objections to the Report and Recommendation. (Mot. Ext., ECF No. 26.) In an abundance of caution, the court granted Simmons' motion and extended the deadline to file objections. (May 17, 2019 Text Order, ECF

No. 27.) Simmons filed timely objections on May 31, 2019.¹ (Obj., generally, ECF No. 29.) Simmons also filed a motion to amend the complaint. (Mot. Amend, ECF No. 30.) On June 4, 2019, the court vacated its previous order dated May 13, 2019, adopted the Report and Recommendation, dismissed Simmons' complaint for failure to state a claim, and denied Simmons' motion to amend. (June 4, 2019 Order, ECF No. 31.) Simmons filed the instant motion on June 14, 2019.² (Mot. Alt. or Amend, ECF No. 34.)

A motion to alter or amend the judgment under Rule 59(e) may be made on three grounds: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). “Rule 59(e) motions may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment” Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). “In general reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” Id. (internal citation and quotation marks omitted).

Upon review, Simmons does not identify any intervening change in controlling law, new evidence, or clear error of law in the court’s earlier judgment. Rather, Simmons repeats his earlier factual arguments. Based on the foregoing, the court finds that Simmons has made no showing of error in the court’s June 4, 2019 order. Therefore, Simmons’ motion is denied.

¹ Houston v. Lack, 487 U.S. 266 (1988).

² Id.

It is therefore

ORDERED that Simmons' motion to alter or amend the judgment, docket number 34, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
June 24, 2019

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.